

# Rights Restriction Training for HCBS Providers

utah department of  
**human** services



Overview for Home and Community-Based Services (HCBS) providers on the use and documentation of rights restrictions.

# Purpose



# Individual Rights

People with disabilities should be able to enjoy the same choices and options available to people without disabilities. Such as...

- Making decisions for themselves
- Choosing what activities they would like to do
- Pursuing higher education
- Getting a job in the community
- Spending money



- Practicing religious beliefs
- Having intimate relationships
- Taking trips and vacations
- Visiting friends and family or have them visit
- Using technology

# Settings Rule

- People have the right to live and receive HCBS in settings that:
  - Are integrated in, and support full access to the greater community
  - Provide opportunities to seek employment and work in competitive integrated settings, engage in community life, and control personal resources



# Settings Rule (cont.)

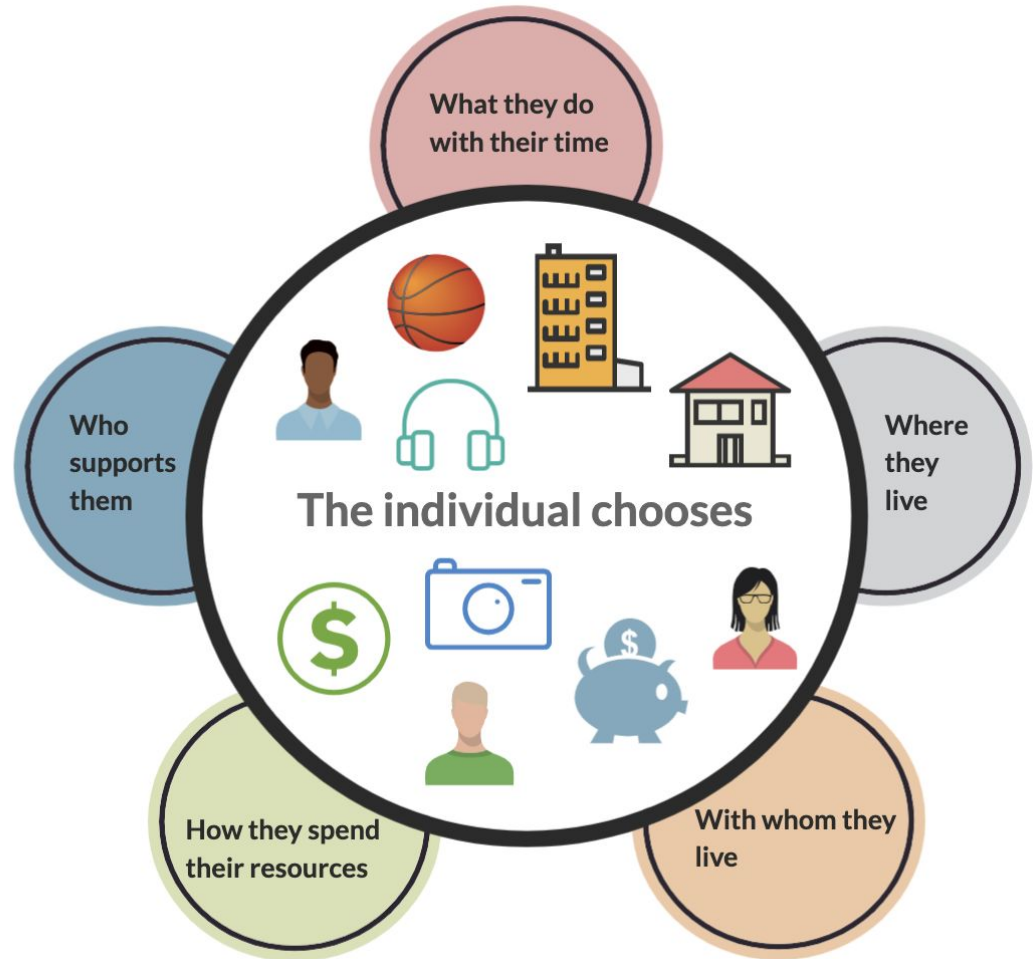
- People have the right to live and receive HCBS in settings that:
  - Are selected by the person from among various options, including non-disability specific settings or a private unit (without roommates)
  - Ensure privacy, dignity, respect, and freedom from coercion and restraint
  - Optimize individual initiative, autonomy, and independence in making life choices
  - Facilitate individual choice regarding services and supports, and who provides them

# Settings Rule - Residential Settings

- Additionally, people have the right to live and receive HCBS in residential settings that:
  - Provide the person with a lease or other legally enforceable agreement with similar protections.
  - Ensure that the person has privacy in their unit including lockable doors, choice of roommates, and freedom to furnish or decorate their unit.
  - Ensure that individuals have the freedom and support to control their own schedule and activities, and have access to food at any time.
  - Ensure that the person can have visitors of their choosing at any time.
  - Ensure that the setting is accessible to individuals. **This can never be restricted.**



# In Summary...



# Introduction to Rights Restrictions





A rights restriction is a limitation to the rights of a person due to a specific assessed need in order to support the health, safety, and well-being of the person or the community.

Rights restrictions must be supported by an **individualized specific assessed need** and **justified and documented** as part of the person-centered planning process.

What is a rights restriction?



Individual rights **CANNOT** be “voluntarily waived.”

For example, you cannot have an “opt out” form pertaining to a person's rights such as them opting out of community activities or providing input on their schedule.

Rights can only be restricted for a **specific justified assessed need**.

Can rights restrictions be “voluntarily waived”?



Rights restrictions should only be implemented when a person and their support team decide it is necessary to restrict or modify the person's rights **after other options for less restrictive interventions have been tried and have not been successful.**

The support team must consider the severity and the likelihood of potential negative outcomes against the rights of the person and limit those rights only when truly necessary.

A rights restriction **cannot** be used to impose the preferences, opinions, or values of the person's support team or provider **when there is no real and immediate risk.**



When can a rights restriction be implemented?

# Emergency Rights Restrictions



Emergency rights restrictions may temporarily be implemented in order to prevent imminent danger to the person, others, or property.

The person's rights should be reinstated when the immediate danger is resolved.

More information on emergency behavior interventions can be found in [Rule R539-4.](#)

**Note: The following slides on the human rights process apply to Division of Services for People with Disabilities (DSPD) providers only.**

# Human Rights Process (DSPD Providers)

- For Division of Services for People with Disabilities (DSPD) providers, when a person and their support team decide it is necessary to restrict or modify the person's rights based on a specific assessed need, a rights restriction plan is created by the provider and submitted to the provider's human rights committee.
  - There must be a separate rights restriction plan for each rights restriction.
  - Any rights restriction imposed in a behavior support plan must also follow the person-centered implementation process.



All rights restrictions should be evaluated specific to the setting, and all providers who are implementing the rights restriction must have a rights restriction plan in place that has been approved by the provider's own human rights committee.

For example, if a person has a rights restriction at their day program, it does not mean that they automatically have the same rights restriction at their residential program.

Rights  
restrictions are  
specific to the  
setting and the  
provider

# Division Human Rights Council (DHRC)

- Offers support, evaluation, and training to Provider Human Rights Committees, provider agencies, and to DSPD.
- It is important that providers ensure that individuals and their support team know that they can appeal a Provider Human Rights Committee decision by sending a request for appeal to:



- DHRC@utah.gov or

- Division Human Rights  
Council c/o DSPD

Attn: Human Rights

195 N. 1950 W.

Salt Lake City, UT 84116



**Note: The following slides apply to all HCBS providers once again.**

# Rights Restriction Documentation Requirements

- The process for implementing a rights restriction is person-centered. The restriction must be justified and documented in the Person-Centered Support Plan (PCSP). The following are requirements that must be included in the documentation in the PCSP:
  - a. A specific and individualized assessed need.
  - b. The positive interventions and supports used prior to any modifications to the person-centered service plan.
  - c. Less intrusive methods of meeting the need that have been tried but did not work.
  - d. A clear description of the condition that is directly proportionate to the specific assessed need.

# Rights Restriction Documentation Requirements (cont.)

- e. A regular collection and review of data to measure the ongoing effectiveness of the modification.
- f. Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
- g. Informed consent of the person.
- h. An assurance that interventions and supports will cause no harm to the person.



# Note

Given that rights restrictions are required to be a part of the person's PCSP, providers will be required to upload individuals' rights restriction documentation into the Utah Provider Interface (UPI) in the future. DSPD is currently working on this interface for DSPD providers and will give more information as it becomes available. **Providers are strongly encouraged to proactively ensure that their documentation meets the requirements outlined in this training.**

# Example #1 Rights Restriction

<b>Example #1:</b>		<b>Not Acceptable</b>	<b>Acceptable</b>
<b>Restriction:</b>		Morgan's doctor has approved 1 beer/month as tolerated.	Morgan can have one alcoholic drink within a 48 hour period.
<b>Documentation Requirements:</b>		Specific and individualized assessed need. If applicable, a way for other individuals to circumvent.	
<b>Justification:</b>		Doctor's orders.	Morgan has a history of drinking in excess. Morgan takes medication that has negative interactions with alcohol. Morgan has been to the ER three times in the past 6 weeks due to medication interaction with alcohol. The doctor recommended no more than one alcoholic drink within a 48 hour period due to the medication interactions.
<b>Documentation Requirements:</b>		A clear description of the condition that is directly proportionate to the specific assessed need.	
<b>Previous Interventions:</b>		None, implemented upon doctors' orders with addition of a new medication.	Morgan's alcohol consumption was not a concern prior to the addition of a new medication that has negative interactions with alcohol. The doctor and staff educated Morgan on the risks associated with the medication and alcohol. When Morgan required medical intervention (ER visit), staff had documented Morgan had chosen to drink alcohol 2-3 days in a row. After the first ER visit, staff worked through the informed decision making process with Morgan when she was contemplating whether she should drink or not. This was not sufficient for Megan to choose not to drink multiple days in a row, putting her health at risk.
<b>Documentation Requirements:</b>		Less intrusive methods used that did not work. Previous positive interventions and supports tried.	

# Example #1 Rights Restriction (cont.)

<b>Data Collection:</b>	<b>Document any medical intervention required.</b>	Documentation will include the following: Each time (date/time) Morgan consumes alcohol as well as any observed symptoms or any medical attention required. Each time Morgan contemplates drinking, when staff has to implement the restriction versus when Morgan chooses to only drink one alcoholic drink within a 48 hour period.
<b>Documentation Requirements:</b>	Regular collection and review of data to measure effectiveness.	
<b>Review:</b>	<b>Annually.</b>	Will be reviewed at minimum, annually (via a formal process: DSPD Human Rights Committee, Person-centered planning process, etc.). Data will be reviewed monthly. Restriction can be terminated if the medication that has a negative interaction with alcohol is discontinued or when Morgan demonstrates she is able to choose (with or without staff support) to have no more than one alcoholic drink within a 48 hour period for 3 consecutive months.
<b>Documentation Requirements:</b>	Established time limits for period reviews to determine if it is still necessary or can be terminated.	
<b>Approval:</b>	<b>Only the guardian or representative signature: Team/Committee Signatures (missing the signatures of the individual):</b>	Individual's Informed Consent Signature: Guardian's Informed Consent Signature (if applicable): The following Team/Committee Members approve the above documented restriction attesting that this is the least restriction intervention identified to ensure the health and safety of the individual and none of the identified interventions or supports will cause harm to the individual or others:
<b>Documentation Requirements:</b>	Informed consent of the individual. Assurance that interventions and supports will cause no harm to the individual.	

# Example #2 Rights Restriction

<b>Example #2:</b>	<b>Not Acceptable</b>	<b>Acceptable</b>
<b>Restriction:</b>	Staff manages all of Jacob's medications.	Jacob requires his medications to be stored and dispensed by staff.
<b>Documentation Requirements:</b>	Specific and individualized	assessed need. If applicable, a way for other individuals to circumvent.
<b>Justification:</b>	As reported by Jacob's parents, he cannot manage his own medications safely.	Jacob takes multiple medications in the morning and at bedtime. Jacob is unable to identify his medications or what they are for and he does not know when he is supposed to take what medications (morning versus night time). Some of Jacob's medications have serious indications and symptoms if missed (for diabetes and mental health).
<b>Documentation Requirements:</b>	A clear description of the condition that is directly proportionate to the specific assessed need.	
<b>Previous Interventions:</b>	None: His parents have never allowed Jacob to participate in his medication management.	Jacob's parents report that when Jacob hurt his foot last year, he was given a bottle of Tylenol. He understood what the Tylenol was for and was given specific instructions but several times he took too high of a dosage (4 pills instead of 2) and he took them too often (every 2 hours). With support, he was unable to manage one medication.
<b>Documentation Requirements:</b>	Less intrusive methods used that did not work. Previous positive interventions and supports tried.	

# Example #2 Rights Restriction (cont.)

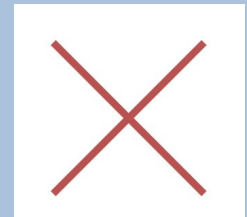
<b>Data Collection:</b>	Staff document medication distribution and any missed medications.	Staff document medication distribution and any missed medications. Documentation will also include education and skill building with Jacob designed to allow Jacob more independence with his medication management.
<b>Documentation Requirements:</b>	Regular collection and review of data to measure effectiveness.	
<b>Review:</b>	No review necessary: Jacob's parents do not want Jacob to manage his medications.	Will be reviewed at minimum, annually (via a formal process: DSPD Human Rights Committee, Person-centered planning process, etc.). Data will be reviewed every 3 months.
		Restriction can be lessened/faded when Jacob demonstrates a basic understanding of his medications. An automatic pill dispenser or bubble packed medications will be trialed as a less restrictive measure at this time. Restriction can be terminated if Jacob is able demonstrate he can independently manage his medications.
<b>Documentation Requirements:</b>	Established time limits for period reviews to determine if it is still necessary or can be terminated.	
<b>Approval:</b>	Only the Team/Committee Signatures (missing the signature of the individual):	Individual's Informed Consent Signature: Guardian's Informed Consent Signature (if applicable): The following Team/Committee Members approve the above documented restriction attesting that this is the least restriction intervention identified to ensure the health and safety of the individual and none of the identified interventions or supports will cause harm to the individual or others:
<b>Documentation Requirements:</b>	Informed consent of the individual. Assurance that interventions and supports will cause no harm to the individual.	



A rights restriction may only be implemented for the person who needs it, and is not to be implemented for a group of individuals or for an entire setting. **Rights restrictions cannot be used as “house rules” in any setting or for any population.** They also cannot be used for staff convenience.

If all of the people receiving services in the setting agree to “house rules” as roommates and it is their choice to follow those rules, that is their choice. **At no time can the provider or staff implement or enforce those rules.** The provider or staff can assist the individuals in the process of the roommates addressing the rules. Staff support could include scheduling a meeting, preparing for the meeting, and walking through the supported decision making process.

Rights  
Restrictions  
That Are NOT  
Permitted -  
House Rules



# Examples of Rights Restrictions That Are NOT Permitted - House Rules

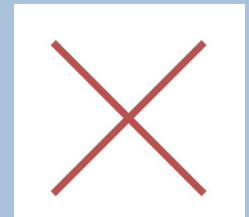
- Individuals all have automatic supervision imposed (e.g. everyone within line of sight, no one can leave with unapproved friends or family, etc.)
- Everyone is required to wake at the same time, eat at the same time, exercise at the same time, etc.
- Required checks in a person's private living space (e.g. nighttime checks at designated times, limited alone time in a person's room during the day)
- No one is allowed to have food or drinks in their rooms/units

More examples of house rules that are not permitted can be found on the [Rights Restrictions flyer on the HCBS Transition webpage](#)

**Personal property, personal funds, or activities a person has a right to engage in cannot be withheld in order to use them as reinforcement for desired behavior.** Money that already belongs to a person cannot be used for reinforcement. These things can only be restricted when there is **documented evidence** that access to the money, items, or activities, pose a risk to the health and safety of the person or others, or as part of an approved behavior support plan.

Note: A person's rights cannot be restricted due to unsuccessful completion of, or refusal to participate in their program goals, except when refusal to participate in programming results in a health or safety risk to the person or others.

Rights Restrictions  
That Are NOT  
Permitted -  
“Consequence” or  
“Reinforcement”



# Examples of Rights Restrictions That Are NOT Permitted - “Consequence” or “Reinforcement”

- **Video Games** - Limiting or taking away an individual’s personal property such as their video game console and video games
- **Family Time/Visitors** - Limiting or taking away visits with family or friends
- **Money** - Limiting or taking away a person’s money
- **Food** - Limiting or taking away food

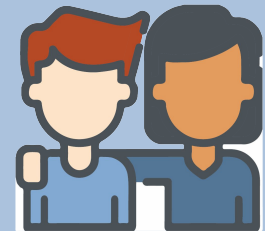


# What Ifs?

To the greatest extent possible, an individualized rights restriction used for a person cannot affect another person in the same setting.

However, it may not be possible to avoid using a rights restriction, which limits the rights of another person. When this is necessary, the provider must make reasonable efforts to decrease the impact of the restriction on other individuals.

What if a person's right restriction affects others in a group setting?



# Examples of Circumventing Rights Restrictions

- If there is a person with a media restriction in a group setting that limits any media rated PG 13 or above, there needs to be options for other individuals in the setting to circumvent this restriction.
- Examples could include:
  - Watching media on personal devices (such as phone, tablet, computer) in their private living space or with headphones if in a shared space
  - Having an agreed upon shared space media schedule (to include anytime the person with a restriction is not in the home)
- Settings with controlled-egress should be able to demonstrate how they can make individual determinations of unsafe exit-seeking risk and make individual accommodations for those who are not at risk.
  - Technological solutions, such as unobtrusive electronic pendants that alert staff when a person is exiting, may be used for those at risk, but may not be necessary for others who have not shown a risk of unsafe exit-seeking behavior.

The person's response to their current rights restriction or even the new setting without the rights restriction may or may not be comparable.

The person's support team must convene to amend the person's plan, considering the context of the new setting, and **not assume that rights restrictions made in a prior setting necessarily apply but rather evaluate to see if they do.** These types of considerations facilitate discussion on what is reasonable for a person and must be reflected and agreed to in writing by the person, in the PCSP.

What if a person moves to a new setting (e.g., from a large residential setting into a small apartment or group home)?





A court may impose restrictions on a person without their consent (document these in the PCSP). But if a provider is taking action(s) to implement a court order, this is a rights restriction that requires consent and must follow the human rights process.

For example, a person under a civil commitment who cannot access explicit content because their therapist feels it interferes with their treatment would require a rights restriction. However, a court order should not be the justification for a rights restriction. Instead, the **rights restriction should address the issues that led to the court order and why the person may need a certain level of supervision and support.**

What if a person has a court order?



- **Ask whether the restriction is truly needed or if other less restrictive interventions have been tried**
  - If there is a serious risk to anyone's health and safety, the restriction can be used/continued for a short time, so long as the provider immediately:
    - (a) implements staffing/other measures to deescalate the situation and
    - (b) reaches out to the Support Coordinator to set up a meeting as soon as possible.
- **Support the person in exploring a different provider or setting that may not require the same restriction**
- **Let the person know that they can appeal a rights restriction to the Division Human Rights Committee (DHRC) - for DSPD-funded individuals**

What if a person does not consent, or revokes their consent, to the rights restriction?

# Thank You!

## Contact:

DSPD Providers - [DHRC@utah.gov](mailto:DHRC@utah.gov)

NCW Providers -  
[newchoiceswaiver@utah.gov](mailto:newchoiceswaiver@utah.gov)

## Resources:

- [Rights Restrictions and Modifications Flyer](#)
- [Examples of Rights Restrictions and Modifications](#)